

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

VALENTINO JOHNSON,

Defendant.

Case No. 14-cr-00412-TEH

**ORDER RE: HEARING ON
DEFENDANT'S MOTION TO
COMPEL DISCOVERY**

Counsel shall come prepared to address the following questions at the May 4, 2015 hearing on Defendant's motion to compel discovery:

For Prosecution

1. Is it the Government certain that the *Furminger* text messages do not include any officers involved in the 2011 homicide, 2014 burglary, or Defendant's arrest – aside from former Officer Dougherty?
2. The Government's opposition focused on the argument that the Government has already disclosed all *Brady/Giglio* evidence contained in the personnel files. Given that Rule 16 is more expansive than *Brady/Giglio*, why do the personnel files not contain Rule 16 evidence that is not be covered by *Brady/Giglio*?
3. How does the Government respond to Defendant's argument that it should have access to the personnel files even if they contain no exculpatory evidence because this will allow them to abandon a specific defense strategy?
4. Is the Government willing to submit the personnel files for *in camera* review so that the Court can determine whether they contain any evidence material to the defense?

For Defendant

1. Does Defendant have any reason to believe that one of the unidentified *Furminger* officers was also involved in the 2011 homicide, 2014 burglary, or Defendant's arrest?


2. The Government has established that the personnel files do not contain any exculpatory or impeachment evidence. Defendant has articulated no reason to believe this is not true. By what authority should Defendant be allowed to verify the Government's claim?

3. Defendant states that he wants the personnel files because they "may contain Rule 16 evidence related to whether the officers who conducted the search of 905 Missouri Street failed to conduct the search properly or had motive to taint the search." Reply at 7. How is this not *Brady/Giglio* evidence? What would this evidence look like?

4. Would Defendant be satisfied in his request for the personnel files if the Court inspected the files *in camera* to determine whether they contain any potentially material information?

IT IS SO ORDERED.

Dated: 05/01/15



THELTON E. HENDERSON
United States District Judge